

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21594 of 2004

Between:

Sondi Karunakar Rao S/o.Peda Appala Swamy, Student,
R/o.Pedareilly Veedhi Parvatipuram,
Vizianagaram District.

..... PETITIONER

AND

- 1 The District Collector and District Magistrate Vizianagaram District, Vizianagaram.
- 2 The Superintendent of Police, Vizianagaram District, Vizianagaram.
- 3 The Sub-Divisional Prohibition and Excise Officer, Parvatipuram, Vizianagaram District.
- 4 The Station House Officer, Prohibition and Excise Station, Parvatipuram, Vizianagaram District.
- 5 The Superintendent, Central Prison, Adavivaram, Visakhapatnam, Visakhapatnam District.
- 6 The Superintendent, Prohibition and Excise Vizianagaram District, Vizianagaram.
- 7 The Government of Andhra Pradesh, represented by its Secretary, General Administration Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or orders of direction more particularly one in the nature of writ of Mandamus declaring the proceedings dated 14.8.2004 passed Vide R.C.No.651/2004/C1 passed by the 1st respondent in respect of detaining the Sondi Peda Appala Swamy S/o.late Sri Nallaiah @ Samuel, the father of the petitioner under the provision of Section 3 (2) read with clause (1)of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits Drugs Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act 1986 as illegal, arbitrary, unconstitutional, without jurisdiction and in violation of principles of natural justice and violative of Article 21 of Constitution of India and consequently direct the

respondents herein to release the detenu Sri Sonidi Peda Appala Swamy S/o.Late Sri Nallaiah @ Samuel, the father of the petitioner forthwith.

Counsel for the Petitioner: MR.NAZEER KHAN

Counsel for the Respondents: ADVOCATE GENERAL

The Court made the following:

ORAL ORDER: (per BN.J.)

Heard the learned counsel for the parties.

2. The detenu, viz., Sonidi Peda Appala Swamy, son of late Nallaiah alias Samuel, has been arrested and detained in terms of the order passed by the 1st respondent-Collector and District Magistrate, Vizianagaram, dated 14.8.2004 in terms of Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act'), which has been challenged in this Writ Petition by his son.

3. The grounds have been communicated to the detenu. We have gone through the grounds of detention, the counter affidavit filed by the 1st respondent and also the record produced by the learned G.P. appearing for the learned Advocate General.

4. Various grounds have been taken to challenge the order of detention. One of the grounds agitated at the Bar is that the detenu was not informed by the detaining authority that the detenu has a right to make a representation to the detaining authority. Therefore, at the earliest point of time he was not able to make a representation against the order of detention to the detaining authority. In the counter affidavit it is not disputed. However, it is stated that it could not vitiate the order of detention of the detenu.

5. This Court has already considered and held by order dated 9.12.2004 in Writ Petition Nos.20160 of 2004, 20559 of 2004, 21086 of 2004 and 20629 of 2004 that if the detenu is not informed that he has a right to make a representation against the order of detention to the detaining authority, it would be an infraction of right guaranteed to the detenu under Article 22(5) of the Constitution of India and, therefore, the detention order passed in this case can be quashed on that ground alone. Since we are quashing the order of detention on the ground

mentioned hereinabove alone, there is no need to deal with other grounds.

6. In the result, the Writ Petition is allowed and the detention order bearing Rc.No.651/2004/C1, dated 14.8.2004 passed by the 1st respondent-The District Collector and District Magistrate, Vizianagaram District, Vizianagaram, is hereby quashed and the detenu viz., Sondi Peda Appala Swamy, son of late Nallaiah alias Samuel shall be released forthwith, if he is not required in any other case.

(BILAL NAZKI, J.)

20th December, 2004.

(G.YETHIRAJULU, J.)

SSR

To

- 1 The District Collector and District Magistrate Vizianagaram District, Vizianagaram.
- 2 The Superintendent of Police, Vizianagaram District, Vizianagaram.
- 3 The Sub-Divisional Prohibition and Excise Officer, Parvathipuram, Vizianagaram District.
- 4 The Station House Officer, Prohibition and Excise Station, Parvatipuram, Vizianagaram District.
- 5 The Superintendent, Central Prison, Adavivaram, Visakhapatnam, Visakhapatnam District.
- 6 The Superintendent, Prohibition and Excise Vizianagaram District, Vizianagaram.
- 7 Secretary, General Administration Department, Government of Andhra Pradesh, Secretariat, Hyderabad.
- 8 The Director General of Police, Hyderabad.
- 9 The Inspector General of Prisons, Hyderabad.
- 10 The Deputy Inspector General of Police (Crimes), Hyderabad/

11 The Director of Prosecutions, Hyderabad

12 2CCs to the learned Advocate General, High Court of A.P. (OUT)

13 2CD copies.